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8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 NEXTDOOR.COM, INC., a Delaware
13 corporation,

14 Plaintiff,

15 v.

16 RAJ ABHYANKER, an individual,

17 Defendant.

Case No. 3:12-cv-05667-EMC-NMC

**DEFENDANT RAJ ABHYANKER'S
OBJECTIONS TO FORM OF SUMMARY
JUDGMENT INJUNCTIVE ORDER LODGED
BY PLAINTIFF NEXTDOOR.COM, INC.,
AND PERSISTENCE IN JURY DEMAND
ABSENT RESOLUTION OF THE THIRD
CAUSE OF ACTION**

18 Date: October 16, 2014
19 Time: 1:30 P.M.
Courtroom: 5, 17th Floor
Judge: Hon. Edward M. Chen

20
21 Defendant Raj Abhyanker ("Abhyanker") hereby objects to the proposed form of
22 injunctive order lodged by plaintiff Nextdoor.com, Inc. ("Nextdoor.com") for the following
23 reasons: (1) any proposed order was required to be filed with the filing of the motion
24 engendering the order pursuant to L.Civ.R. 7-2(c), and no proposed order was invited to be filed
25 by the Court at the partial summary judgment hearing; (2) Nextdoor.com did not meet and confer
26 with Abhyanker in an effort to resolve issues concerning the scope and terms of the proposed
27 order prior to lodging it, or since; and (3) if it was Nextdoor.com's intention to utilize any order

1 arising from the granting of partial summary judgment on the fourth cause of action (for
2 trademark infringement) to resolve the third cause of action (for cybersquatting) simultaneously,
3 then why did Nextdoor.com take up the Court's time with an extended discussion of minute
4 scheduling of pre-trial matters which would be obviated by dismissal of the third cause of action
5 – Nextdoor.com should have simply proposed its intended resolution instead. Nextdoor.com's
6 unilateral and non-cooperative approach to this case continues to frustrate both efficient case
7 management and case resolution.

8 Nevertheless, in the interest of sparing sparse judicial resources, Abhyanker agrees that a
9 proper form of injunctive order can be drafted to resolve both the fourth (for trademark
10 infringement) and third (for cybersquatting) causes of action, without the need to hold a trial.
11 That injunctive order can prohibit use of the NEXTDOOR trademark. But that injunctive order
12 should (1) be directed only against Raj Abhyanker, as he is the only named defendant, and there
13 is no authority for the order to reach any other person or entity; (2) specify its scope more clearly
14 than the proposed form of injunctive order lodged by Nextdoor.com, as the term "colorable
15 imitation thereof" (in numbered paragraph three of the proposed injunctive order) is too imprecise
16 to provide Abhyanker needed guidance or to support any later enforcement action; (3) not include
17 any more sweeping restriction beyond use of the NEXTDOOR trademark, as has been attempted
18 by Nextdoor.com (in numbered paragraph four of the proposed injunctive order), as there is no
19 authority granted by the Lanham Act for extending the injunction beyond protection of the
20 trademark at issue; and (4) direct that Abhyanker's FATDOOR trademark, put at issue in this
21 case by Nextdoor.com through another, already-dismissed, claim, is expressly not subject to the
22 injunction.

23 Further, in order for Abhyanker to agree to resolution of the third cause of action (for
24 cybersquatting) without the trial otherwise guaranteed to him, and to avoid confusion going
25 forward, the injunctive order should make explicit that there has not been, and there will not be,
26 any finding of an "extraordinary case" warranting the payment of attorneys' fees, as that term is
27 used in Section 35 of the Lanham Act or in the cases interpreting it; nor has there been, nor will
there be, any finding of bad faith or willfulness warranting the payment of attorneys' fees on the

1 part of Abhyanker, as those terms are used in the cybersquatting statute or in the cases
 2 interpreting it. Further, the injunctive order should make explicit that nothing in it makes
 3 Nextdoor.com the prevailing party as to the third cause of action (for cybersquatting), or as to the
 4 case as a whole.

5 With the above clarifications, Abhyanker is amenable to an injunctive order that would
 6 dispose of both the fourth cause of action (for trademark infringement) and third cause of action
 7 (for cybersquatting) without a trial. In the event of agreement by Nextdoor.com, Abhyanker
 8 would then consent to Nextdoor.com's voluntary dismissal of the third cause of action (for
 9 cybersquatting), with prejudice, to avoid having this claim resurface later in spite of having been
 10 fully resolved by injunctive order. In the event of disagreement by Nextdoor.com, Abhyanker
 11 respectfully suggests that the parties take up the drafting of the injunctive order with Magistrate
 12 Judge Laporte at the settlement conference scheduled for October 27, 2014, in the hope of
 13 reaching an order agreeable to the parties.

14 Until resolution of the third cause of action (for cybersquatting) is pursued to conclusion,
 15 Abhyanker persists in his jury trial demand.

16 Finally, given the deliberate and indiscreet manner in which Nextdoor.com has leaked the
 17 contents of settlement conference discussions made confidential by L.Adr.R. 7.5(a) into the
 18 public record and before the judge presiding over the case, Abhyanker requests that the Court
 19 specifically admonish Nextdoor.com to keep all discussions shared at the settlement conference
 20 between the parties or with Judge Laporte confidential. Without a guarantee of confidentiality,
 21 the settlement process is hampered for fear that conciliatory offers to compromise will be blithely
 22 and insensitively revealed to the Court or the public.

23 Respectfully Submitted,

24 Dated: October 21, 2014

LEGALFORCE RAJ ABHYANKER, P.C.

/s/ David Lavine

David Lavine

Attorney for Defendant Raj Abhyanker